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ABSTRACT

This paper discusses the United Nations' Convention on the Rights of the Child, which was adopted in 1989 and, over the next approximately 3 years, was ratified by 117 member countries. After a brief historical overview of children's rights, the paper presents a summary and analysis of the Convention's preamble, which states the preconditions of the convention and sets out guidelines for interpreting the convention, and articles of the convention. The articles include 41 substantial texts which are divided into three groups of articles which deal with: (1) provision for children's rights to survival and development; (2) protection of children from separation from their family, exploitation, and violence; and (3) children's participation in decisions that affect their lives. The convention also included four articles that concern the implementation of the convention, and nine articles that outline the conditions under which the convention will enter into force. Several articles that are especially important are discussed in greater detail. Sweden's responsibility as a ratifying nation is discussed, and suggestions for improving the standards and adding new articles are offered. (MM)

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HOW THE CONVENTION ON THE RIGHTS OF THE CHILD PROVIDES FOR THE SURVIVAL AND DEVELOPMENT OF THE CHILD

paper presented at the

20th World Congress of OMEP, the World Organization for Early Childhood Education, August 4, 1992, in Arizona, U.S.A.

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A BRIEF HISTORICAL REFLECTION ON CHILDREN'S RIGHTS

In 1924 the first human rights document on children's rights came true, the Children's Charter adopted by the League of United Nations. It is a very strong document, as the child is looked upon as a human being with its own rights, even if it only consists of five principles.

This is especially important to mention as the purpose with the Declaration on the Rights of the Child from 1959 was to extend the rights of children. But when looking at the text you find that this text in fact is a weakening of the rights of children even if there are a greater number of principles. Children's needs and rights are in this document totally determined by adults, by the parents.

The discussion on the situation of the children of the world continued and in 1979 there was a Polish proposal to adopt a convention on the rights of the child. A convention is a legally binding instrument for those countries that ratify, which is not the fact with a declaration.

On the other hand a convention is only binding for those countries which ratify. This means that it is important that as many countries as possible ratify the document in order for it to become a strong instrument to use when fighting for better growing up conditions for children.

Since the adoption of the Convention on the Rights of the Child on November 20, 1989 till today 117 countries have ratified, many of those being developing countries and few being developed countries. When a country ratifies a convention the parliament and the government have approved of living up to the content and intention of the convention. Sweden ratified on June 11th 1990.

THE CONVENTION, A GUIDELINE FOR NATIONAL LEGISLATION

When a country ratifies a convention, the convention becomes a guideline for or identical with national legislation. This differs in variuos countries. But it means that, when e g judging in a case where a child is involved, at least the intention or the meaning of the national law and the convention has to be consistent.

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The ratification of eg Sweden was possible after having had lawyers going through the Swedish Social Services Act and Family Act. These lawyers have certified that the Swedish laws applicable are consistent with the content and intention of the Convention on the Rights of the Child, but with some minor exceptions, which were put forward to the Swedish parliament. The parliament, though, has approved of the Convention without reservations.

To this can be added that the Swedish Minister of social affairs has stated that even if the Swedish laws applicable agree with the convention and its intention, the reality is not always consistent. In these cases, the reality has to be consistent with the convention.

THE CONTENT OF THE CONVENTION

The Convention on the Rights of the Child consists of various parts:

- the preamble
- the substantial articles
- the implementation articles
- the enter into force articles.

The preamble:

The preamble differs from the rest of the content, as it states the preconditions for the convention. It does not contain articles. In the preamble is set out the background and the guidelines for how to interprete the convention.

It states that parents are important for the development and well-being of the child and are entitled to support in their roles as parents, but also that the child needs to grow up in a loving and caring family environment in order to develop according to its optimal potential.

This is important to emphazise since you for example can hear parents expressing their thoughts and fears as: Are children to decide everything? Don't parents have any rights any longer?

I believe that as educators, as people who work with and for children and young people, we have a big responsibility to teach that along with rights there are always duties. Duties such as solidarity, consideration, empathy, which children do possess already at a very early stage. When teaching children and young people their rights it is important to strengthen these issues.

The substantial articles, 41 articles:

The substantial articles can be divided into three groups:

- provision
- protection
- participation.

The articles on **provision** deal with the rights to survival and development. Meaning food, housing, clothing, medical care, information, education, care and play or leisure. Play in the meaning of stimulation, as a means for survival and development.

Here is also written that a poor country which due to lacking economic resources cannot ratify, can ask for technical assistance from a rich country. Such assistance can be asked for e g if a country is not able to let all children without cost go to school. The technical assistance can only be asked for in matters of economical difficulties.

For this reason many of the very poor countries have been able to ratify. Rich countries, when ratifying take the responsibility to give such assistance. This of course has had the consequence that rather few of the rich countries up till now, July 1992, have ratified.

The articles on **protection** deal with protection from separation from the family, protection against all kinds of exploitation and cruelty, against violence. Certain groups which demand special protection are pointed out. These are handicapped children, refugee children, children from minority groups and children without parents.

The articles on **participation** deal with the right to express ones views in all matters that affect one's life and that these views are respected. It does not mean that all decisions are to be made according to the views of the child, but it means that the child is entitled to tell its opinion and that adults have to respect these opinions and, if this is the case, tell why the wishes of the child can not be fulfilled. In the matter of deciding e g age and level of maturity are to be taken into account. The right to establish and take part in organizations and the right to private life are as well dealt with here.

Some of the substantial articles are of the kind that more directly than others emphazise the state's obligatory to provide for children's and young people's rights, whilst others more directly deal with the position and rights of the child within the family.

The implementation articles, 4 articles:

In this part of the convention is said for example that a committee consisting of ten people of very high moral and

knowledge on children shall ask for reports from the states which have ratified the convention. The reports shall tell about the situation for the children of the countries respectively and what the state has done in order to achieve the goals and intentions of the convention.

Here is also written that the committee may ask NGO:s, non- . governmental organizations, for advice or information on special issues.

The enter into force articles, 9 articles:

Here you can read the conditions for the convention to enter into force. It states that when the 20th state has ratified the convention enters into force 30 days after.

In this part is also written that when one third of the countries which have ratified the convention think that some articles have to be strengthened or some articles have to be added the work to do so can start.

THE BASIC CONDITIONS FOR SURVIVAL AND DEVELOPMENT

Nutrition, healthcare and psychological stimulation or early childhood education are components of equal value for the survival and development of a child. There exists a well documented evident correlation between lack of stimulation and deprivation.

For a long time it has been known that infants do not develop or even survive without loving care and stimulation from adults.

Every child has a potential for development.All development takes place in the interaction with another human being.

The child is from the very beginning a social human being striving for contact.

The caretaker follows the initiative of the child, names with approval, reflects positively what the child does and responds with positive expressive gestures.

(Hundeide 1988)

This does not depend on a special culture , it fits for children of all cultures.

PROVISION FOR SURVIVAL AND DEVELOPMENT IN THE CONVENTION

The main purpose with the Convention on the Rights of the Child is that the child is considered and respected as a human being with its own human rights.

This is especially reflected in:
article 2, the non-discrimination article,
article 3, the best interests of the child,
article 12,the child's right to express its opinion in all matters which affect the life of the child,
article 4, the obligation of the state to undertake its utmost measures for the implementation of the rights of the child.

Consequently these articles can be considered to be the most important ones in the convention.

The articles mainly reflecting survival and development are:
article 3, the best interests of the child,
article 6, the right to survival and development,
article 9, the right to both parents,
article 18, the responsibility of both parents for the child,
article 27, the right to a standard of living which provides for the optimal development of the child,
article 31, the right to play and leisure.

Article 6:

The right to life. It states that the country shall to its maximum extent ensure the survival and development of each child. As is well known, and is said above, the precondition for the survival and development of a child is not only food and clothing, but stimulation or you could say early childhood education.

Article 3:

The best interests of the child shall be the principle in all situations where children are involved. All institutions - private or public - shall fill set norms concerning:
- security
- health
- the number of staff per given number of children
- the suitability of the staff for working with children
- the educational level of the staff.

The country undertakes to ensure the child such care as is necessary for the well-being of the child.

This means that the country has promised that the institutions shall conform with the standards set by competent authorities in order to provide for the child's development and education. It is an extremely strong article for day-care institutions and kindergardens if e g facing cutting downs.

Article 9:

The right to both parents. It states that under no circumstances shall a child be separated from its parents unless it is evident that it is in the best interests of the child to do so.

The meaning behind this is that in order for a child to develop to its maximum it has to feel trust, be secure and confident and that a separation from those that the child love most must not happen since it is devastating for the development and well-being of the child.

Article 18:
The responsibility of both parents for the child. It states that both parents have the responsibility to provide for the upbringing and development of the child and that this has to be done in the best interests of the child.

The meaning is that the child is entitled to a continuous stimulation from the parents, if possible, for its optimal development. Here is also stated that when parents work, the child needs child-care services and facilities to meet these needs.

Article 27:

The right to a good standard of living. It states that the child is entitled to a standard of living which is adequate for the physical, mental, spiritual, moral and social development.

Even if the main issue here particularly is support with regard to nutrition, clothing and housing, it also states that other kinds of support programmes are required in order for the development of the child.

Article 31:

The right to play and leisure. All children's equal right to play.

This means that the States Parties have not only recognized the need for children to play in order to develop, but also taken the obligation to provide for it generally.

LIVING UP TO THE OBLIGATION AS A STATE PARTY OF THE CONVENTION ON THE RIGHTS OF THE CHILD

A wealthy country having ratified the convention always will have to set other and higher standards than a poor country in order to fulfil the obligations set in the convention. This means that the

standards should be compared to the national legislation and standard of the country.

Even if Sweden for example has ratified the convention with no reservation and up till now without changes of national legislation, there are doubts on certain points.

Among people working with children and young people as professionals there are e g discussions about the proposal from the Swedish government that the six year olds shall start school. And this means going to the same school as up til now the seven years old have started in. This is not in the best interest of the child! and against article 3.

The objection from the professionals is not whether the six years old shall start school or not, but that the school has to be changed in order to fit the younger children. So far the government has left it to parents to decide whether they want their six years old to start, but in 1996 it is supposed to be for all.

Another example is refugee children, who according to article 22 of the convention shall be provided with special protection and help. They are entitled to be heard at the boarder in order to find the parents if these are not accompanying the children, but also in order to be able to work "therapeutically" with the traumas that the children have experienced. Refugee children should have the same medical care as all children in Sweden. The ethnical and cultural background of the children should be taken into account when placing children in e g foster homes. At all these points Sweden to my opinion is obstructing the convention.

The first reports to the Committee on the Rights of the Child are going to be sent during autumn 1992. The exact dates for the reports from the countries which have ratified depend on the date of the ratification of the country in question. The date is set precisely two years after the ratification of the country. This means that Sweden is supposed to deliver its report on September 2, 1992.

The reaction from the committee to the reports is going to be of great interest. It is a matter of how the committee interpret the efforts made in the countries. If fully implemented the convention is a very strong and dynamic instrument and which, according to the situation of the world of today, more reflects an ambition than reality.

The reports shall according to the convention also be widely disseminated in the countries respectively. This will make it possible for national NGO:s to check it.

IMPROVING THE STANDARDS AND ADDING NEW ARTICLES

In the convention there is no article that tells directly about early childhood intervention or education, which as said above is a main precondtition for the survival and development of a child.

With OMEP in the leed there were many organizations during the UN working group sessions in Geneva which tried really hard to involve a paragraph in the article on education, number 28, on early childhood intervention and care.

The aim was to make it an obligation for a State Party (= a country which has ratified the convention is called a State Party) to make arrangements for some kind of organized activities, stimulation, for pre-school children. It was suggested that this should be done according to local possibilities and preconditions.

It was as well stated from the NGO:s that this is extremely important in poor countries, because the mothers work long days outside the home. The youngest baby is always together with its mother, sitting on her back, but the older, still very young children, are totally left on their own. For these children a pre-school activity is vital for their survival and development.

Many countries were in favour of the proposal, but in the end we had to give it up since all countries did not approve of the proposal. And all articels in the convention are decided on a consensus basis.

One of the reasons for not accepting a special text on early childhood intervention and care - or you could say early childhood education - was though, that it was said that many of the already existing articles are reflecting this. This is a matter of interpretation, though, and is not sufficient.

In the enter into force arricles is said that when one third of the States Parties want to inprove an article or want to add new articles, this work can start. As OMEP-members most certainly we should strive for including an article which states that a State Party has to provide for some kind of early childhood education or intervention and care for the survival and development of children. Anything else is not in the best interests of the child.

CREATE OPINION

In July 1992 117 of the 176 UN nations have ratified the Convention on the Rights of the Child and 135 states have signed the Action plan for survival and development of all children from the World Summit for Children September 29, 1990.

Of the 135 countries having signed the latter, 126 either have

now finalized, are being in draft or are preparing national programmes of action. This creates good hope for the children of the world.

As professionals in the field of early childhood education we have an obligation to fulfil in keeping children on our national political agendas!

We know that children need spokesmen who are able and willing to defend children's rights. Working for national children's ombudsmen is a challenge. Let us make reality of this!

We also have an obligation to teach the convention to children and young people themselves.

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